

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, ) CR-07-00251 RMW  
)  
PLAINTIFF, ) SAN JOSE, CALIFORNIA  
)  
VS. ) NOVEMBER 5, 2007  
)  
JOSE HERNANDEZ BONILLA, ) PAGES 1-12  
)  
DEFENDANT. )  

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE  
BY: THOMAS M. O'CONNELL  
150 ALMADEN BOULEVARD  
SUITE 900  
SAN JOSE, CALIFORNIA 95113

FOR THE DEFENDANT: FEDERAL PUBLIC DEFENDER'S OFFICE  
BY: LARA S. VINNARD  
160 WEST SANTA CLARA STREET  
SUITE 575  
SAN JOSE, CALIFORNIA 95113

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

SAN JOSE, CALIFORNIA

NOVEMBER 5, 2007

P R O C E E D I N G S

(WHEREUPON, COURT CONVENED AND THE  
FOLLOWING PROCEEDINGS WERE HELD:)

THE CLERK: FIRST MATTER, CR-07-00251,  
U.S.A. VERSUS JOSE HERNANDEZ BONILLA, ON FOR  
STATUS.

MS. VINNARD: GOOD MORNING, YOUR HONOR.  
LARA VINNARD FOR MR. BONILLA. HE'S PRESENT OUT OF  
CUSTODY.

MR. O'CONNELL: GOOD MORNING, JUDGE.  
THOMAS O'CONNELL FOR THE GOVERNMENT.

THE COURT: GOOD MORNING. WHAT'S THE  
STATUS?

MS. VINNARD: WE'RE PREPARED TO GO  
FORWARD WITH AN OPEN PLEA.

THE COURT: OKAY.

THE CLERK: RAISE YOUR RIGHT HAND.

(JOSE HERNANDEZ BONILLA, DEFENDANT,  
SWORN.)

THE DEFENDANT: YES.

THE CLERK: THANK YOU.

THE COURT: ALL RIGHT.

MR. BONILLA, IT'S MY UNDERSTANDING THAT  
YOU WISH TO ENTER A PLEA IN THIS CASE.

1 IS THAT CORRECT?

2 THE DEFENDANT: THAT'S CORRECT.

3 THE COURT: I'M GOING TO BE ASKING YOU  
4 SOME QUESTIONS THIS MORNING AND ADVISING YOU OF  
5 SOME RIGHTS.

6 IF AT ANY TIME YOU HAVE ANY QUESTIONS,  
7 PLEASE LET ME KNOW BECAUSE I WANT TO MAKE SURE YOU  
8 UNDERSTAND YOUR RIGHTS AND THE EFFECT OF PLEADING  
9 GUILTY.

10 SINCE I HAVE HAD YOU SWORN TO TELL THE  
11 TRUTH, I'M REQUIRED BY LAW TO ADVISE YOU THAT  
12 SHOULD YOU ANSWER ANY OF MY QUESTIONS WITH AN  
13 ANSWER THAT YOU KNOW IS INCORRECT, THAT COULD GET  
14 YOU INTO FURTHER DIFFICULTY WITH THE LAW FOR MAKING  
15 A FALSE STATEMENT TO THE COURT UNDER OATH, AND IF  
16 YOU WERE EVER CHARGED WITH MAKING A FALSE STATEMENT  
17 TO THE COURT UNDER OATH, WHAT YOU SAID HERE TODAY  
18 COULD BE USED AGAINST YOU.

19 DO YOU UNDERSTAND THAT?

20 THE DEFENDANT: YES, I DO.

21 THE COURT: HAVE YOU BEEN PROVIDED WITH  
22 THE -- WITH A COPY OF THE CHARGES BEING BROUGHT  
23 AGAINST YOU?

24 THE DEFENDANT: YES.

25 THE COURT: OKAY. AND ARE YOU CURRENTLY

1 TAKING ANY KIND OF MEDICATION OR DRUG OR ANYTHING  
2 THAT AFFECTS YOUR ABILITY TO THINK CLEARLY AND MAKE  
3 DECISIONS?

4 THE DEFENDANT: I'M TAKING SOME  
5 PRESCRIBED MEDICATION, BUT I'M --

6 THE COURT: IT DOESN'T AFFECT YOUR --

7 THE DEFENDANT: IT DOESN'T AFFECT MY  
8 ABILITY TO ANSWER YOUR QUESTIONS.

9 THE COURT: OKAY. AND ARE YOU SATISFIED  
10 WITH YOUR LAWYER?

11 THE DEFENDANT: YES, I AM.

12 THE COURT: OKAY. HAS ANYBODY PROMISED  
13 YOU ANYTHING IN ORDER TO GET YOU TO PLEAD GUILTY?

14 THE DEFENDANT: NO, SIR.

15 THE COURT: HAS ANYBODY TRIED TO FORCE  
16 YOU TO PLEAD GUILTY?

17 THE DEFENDANT: NO, SIR.

18 THE COURT: NOW, THERE ARE TWO CHARGES  
19 AGAINST YOU.

20 THE FIRST CHARGE IS THAT ON OR ABOUT  
21 JULY 29TH, 2006, AS OF THAT DATE, YOU'D BEEN  
22 PREVIOUSLY CONVICTED OF A CRIME THAT CARRIED A TERM  
23 OF IMPRISONMENT EXCEEDING ONE YEAR; THAT ON  
24 JULY 29TH, 2006, YOU KNOWINGLY POSSESSED A FIREARM;  
25 AND THAT THAT FIREARM HAD TRAVELED IN INTERSTATE

1 COMMERCE.

2 THE MAXIMUM PUNISHMENT FOR THAT OFFENSE  
3 IS TEN YEARS OF IMPRISONMENT; A \$250,000 FINE; A  
4 THREE YEAR PERIOD OF SUPERVISED RELEASE; AND A \$100  
5 MANDATORY SPECIAL ASSESSMENT.

6 THE SECOND CHARGE AGAINST YOU IS FOR  
7 POSSESSION OF AN UNREGISTERED FIREARM.

8 THAT CHARGE BASICALLY SAYS THAT ON  
9 JULY 29TH, 2006, YOU POSSESSED A FIREARM AND THAT  
10 THE FIREARM WAS NOT REGISTERED IN THE NATIONAL  
11 FIREARMS REGISTRATION AND TRANSFER RECORD.

12 THE MAXIMUM PUNISHMENT FOR THAT OFFENSE  
13 IS ALSO TEN YEARS OF IMPRISONMENT; A \$250,000 FINE,  
14 A THREE YEAR PERIOD OF SUPERVISED RELEASE; AND A  
15 \$100 SPECIAL ASSESSMENT.

16 SUPERVISED RELEASE IS A PERIOD OF TIME  
17 AFTER SOMEONE'S RELEASED FROM ANY CUSTODY SENTENCE  
18 IN WHICH HIS ACTIVITIES ARE RESTRICTED, AND SHOULD  
19 HE VIOLATE ONE OF THOSE RESTRICTIONS, HE CAN BE  
20 PLACED BACK INTO CUSTODY IMMEDIATELY.

21 THE COMPLAINT -- OR, RATHER, THE  
22 INDICTMENT ALSO SEEKS TO HAVE YOU FORFEIT TO THE  
23 GOVERNMENT THE FIREARM REFERENCED IN THE  
24 INDICTMENT.

25 NOW, DO YOU FEEL YOU UNDERSTAND WHAT THE

1 GOVERNMENT WOULD HAVE TO PROVE AND THE PUNISHMENTS  
2 FOR EACH OF THOSE OFFENSES?

3 THE DEFENDANT: YES.

4 THE COURT: ALL RIGHT. NOW, YOU HAVE  
5 CERTAIN RIGHTS.

6 YOU HAVE THE RIGHT TO PLEAD NOT GUILTY,  
7 TO CONTINUE IN THAT PLEA, AND TO HAVE THIS CASE GO  
8 TO TRIAL.

9 IF THE CASE GOES TO TRIAL, YOU'D HAVE A  
10 RIGHT TO BE REPRESENTED BY COUNSEL. IF YOU  
11 COULDN'T AFFORD COUNSEL, COUNSEL COULD BE PROVIDED  
12 FOR YOU AT NO COST.

13 YOU'D BE PRESUMED TO BE INNOCENT AND  
14 COULD NOT BE FOUND GUILTY UNLESS AND UNTIL THE  
15 GOVERNMENT PROVED YOUR GUILT BEYOND A REASONABLE  
16 DOUBT.

17 YOU'D HAVE A RIGHT TO FACE, QUESTION,  
18 CROSS-EXAMINE ANY EVIDENCE OR WITNESSES CALLED BY  
19 THE GOVERNMENT.

20 YOU'D HAVE A RIGHT TO PRESENT EVIDENCE  
21 AND WITNESSES ON YOUR OWN BEHALF.

22 YOU COULD TESTIFY YOURSELF IF YOU WISHED.

23 ON THE OTHER HAND, IF YOU WANTED TO  
24 REMAIN SILENT, YOU COULD DO SO AND YOUR SILENCE  
25 COULD NOT BE HELD AGAINST YOU OR COMMENTED ON BY

1 THE GOVERNMENT.

2 YOU'D ALSO HAVE THE RIGHT TO HAVE THE  
3 COURT ORDER WITNESSES TO APPEAR IF YOU MADE THAT  
4 REQUEST.

5 IF YOU PLEAD GUILTY, THERE WILL BE NO  
6 TRIAL AND YOU'LL BE FOUND GUILTY BASED UPON WHAT  
7 I'M TOLD THIS MORNING.

8 NOW, DO YOU FEEL YOU UNDERSTAND YOUR  
9 RIGHTS?

10 THE DEFENDANT: YES, YOUR HONOR.

11 THE COURT: OKAY. WOULD THE GOVERNMENT  
12 OUTLINE THE EVIDENCE IT HAS, PLEASE?

13 MR. O'CONNELL: YES, SIR.

14 YOUR HONOR, IF THIS CASE WERE TO PROCEED  
15 TO TRIAL, THE GOVERNMENT WOULD PROVE BEYOND A  
16 REASONABLE DOUBT THAT ON OR ABOUT JULY 29TH, 2006,  
17 POLICE IN WATSONVILLE, CALIFORNIA, RESPONDING TO A  
18 GANG ALTERCATION.

19 THEY NOTICED A GMC YUKON VEHICLE WITH AN  
20 OPEN WINDOW WITH A SAWED-OFF SHOTGUN LYING ON THE  
21 FRONT SEAT OF THAT VEHICLE.

22 AFTER SECURING THE SAWED-OFF SHOTGUN,  
23 THEY ASCERTAINED THAT THE VEHICLE BELONGED TO THE  
24 DEFENDANT, MR. BONILLA.

25 THE SHOTGUN WAS SUBMITTED TO THE

1       LABORATORY.   MR. BONILLA'S FINGERPRINTS WERE  
2       RECOVERED, OR AT LEAST ONE LATENT FINGERPRINT WAS  
3       RECOVERED WHICH MATCHED MR. BONILLA.

4               THE SHOTGUN HAD AN OVERALL LENGTH OF 24  
5       INCHES AND A BARREL LENGTH OF 13 INCHES, WHICH WERE  
6       BOTH BELOW THE STATUTORY REQUIREMENT OF AN 18-INCH  
7       BARREL AND AN OVERALL LENGTH OF 26 INCHES.

8               THE SHOTGUN WAS NOT REGISTERED IN THE  
9       NATIONAL FIREARMS REGISTRATION TRANSFER RECORD.

10              AND THE DEFENDANT HAD SUFFERED ONE PRIOR  
11       FELONY CONVICTION; THAT IS, A CRIME PUNISHABLE BY  
12       AT LEAST ONE YEAR IN PRISON.

13              THE COURT:   ALL RIGHT.   MR. BONILLA, AS  
14       OF JULY 29TH, 2006, DID YOU HAVE A FELONY  
15       CONVICTION?   IN OTHER WORDS, A CONVICTION FOR AN  
16       OFFENSE THAT CARRIED A PUNISHMENT OF MORE THAN A  
17       YEAR?

18              THE DEFENDANT:   YES, YOUR HONOR.

19              THE COURT:   OKAY.   AND ON JULY 29TH,  
20       2006, DID YOU POSSESS A SAWED-OFF REMINGTON 12  
21       GAUGE SHOTGUN?

22              THE DEFENDANT:   YEAH.   YES, YOUR HONOR.

23              THE COURT:   OKAY.   YOU KNEW YOU HAD IT;  
24       RIGHT?

25              THE DEFENDANT:   YEAH.



1 THE COURT: OKAY. AND DO YOU AGREE THAT  
2 THE WEAPON TRANSFERRED AT SOME POINT IN ITS  
3 LIFETIME FROM ONE STATE TO ANOTHER?

4 THE DEFENDANT: I DIDN'T --

5 MS. VINNARD: MAY THE COURT PHRASE THE  
6 QUESTION AS WE AGREED THE GOVERNMENT WOULD PROVE?

7 THE COURT: YEAH. DO YOU HAVE ANY -- DO  
8 YOU DISPUTE THAT THE GUN IN ANY -- LET ME START  
9 THAT AGAIN.

10 THE GOVERNMENT HAS TO PROVE THAT THE  
11 SHOTGUN TRAVELED FROM ONE STATE TO ANOTHER AT SOME  
12 POINT IN TIME BEFORE YOU WERE FOUND WITH IT.

13 DO YOU DISPUTE THAT THE GOVERNMENT COULD  
14 PROVE THAT BEYOND A REASONABLE DOUBT?

15 (DISCUSSION OFF THE RECORD BETWEEN  
16 MS. VINNARD AND THE DEFENDANT.

17 THE DEFENDANT: NO, YOUR HONOR.

18 THE COURT: OKAY.

19 MR. O'CONNELL: YOUR HONOR, FOR THE  
20 RECORD, THE WEAPON -- I NEGLECTED TO MENTION  
21 THIS -- WAS, IN FACT, MANUFACTURED IN NEW YORK, SO  
22 IT HAD TO HAVE TRAVELED IN INTERSTATE COMMERCE.

23 THE COURT: OKAY. AND WITH RESPECT TO  
24 THE SECOND OFFENSE, WAS THE GUN REGISTERED TO YOU  
25 UNDER -- IN THE NATIONAL FIREARM REGISTRATION AND

1       TRANSFER RECORD?

2                   THE DEFENDANT:   IF IT WAS REGISTERED TO  
3       ME?

4                   THE COURT:   YES.

5                   THE DEFENDANT:   NO.

6                   THE COURT:   OKAY.   AND DID YOU KNOW THAT  
7       IT WAS NOT REGISTERED TO YOU?

8                   (DISCUSSION OFF THE RECORD BETWEEN  
9       MS. VINNARD AND THE DEFENDANT.)

10                  THE DEFENDANT:   YES, YOUR HONOR.

11                  THE COURT:   OKAY.   AND, AGAIN, YOU KNEW  
12       YOU HAD THE WEAPON; CORRECT?

13                  THE DEFENDANT:   YES, YOUR HONOR.

14                  THE COURT:   OKAY.   AND DO YOU UNDERSTAND  
15       AND -- WELL, LET ME ASK IT THIS WAY:   ARE YOU  
16       AGREEING THAT THE FIREARM CAN BE FORFEITED TO THE  
17       GOVERNMENT?

18                  THE DEFENDANT:   YES, YOUR HONOR.

19                  THE COURT:   OKAY.   ALL RIGHT.   IS THERE  
20       ANYTHING FURTHER THE GOVERNMENT WOULD LIKE ME TO  
21       ASK?

22                  MR. O'CONNELL:   YES, JUDGE.   JUST THAT  
23       THE DEFENDANT ACKNOWLEDGES THAT HE KNEW THE NATURE  
24       OF THE FIREARM; THAT IS, THAT IT HAD BEEN MODIFIED  
25       SUCH THAT THE OVERALL LENGTH WAS LESS THAN 26

1 INCHES AND/OR THE BARREL LENGTH WAS LESS THAN 18  
2 INCHES.

3 THE COURT: OKAY. DO YOU AGREE WITH THAT  
4 STATEMENT?

5 THE DEFENDANT: YES, YOUR HONOR.

6 THE COURT: OKAY. ANYTHING ELSE?

7 MR. O'CONNELL: NO, SIR.

8 THE COURT: ALL RIGHT.

9 IS THERE ANYTHING FURTHER YOU'D LIKE ME  
10 TO ASK OR TALK TO YOUR CLIENT ABOUT BEFORE I ASK  
11 HIM HOW HE PLEADS, MS. VINNARD?

12 MS. VINNARD: NO, YOUR HONOR.

13 THE COURT: MR. BONILLA, DO YOU HAVE ANY  
14 QUESTIONS BEFORE I ASK YOU HOW YOU PLEAD?

15 THE DEFENDANT: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. AT THIS TIME,  
17 THEN, I'D ASK YOU HOW YOU PLEAD TO COUNT ONE, WHICH  
18 IS A FELON IN POSSESSION OF A FIREARM, GUILTY OR  
19 NOT GUILTY?

20 THE DEFENDANT: GUILTY.

21 THE COURT: AND AS TO COUNT TWO, WHICH IS  
22 POSSESSION OF AN UNREGISTERED FIREARM, GUILTY OR  
23 NOT GUILTY?

24 THE DEFENDANT: GUILTY.

25 THE COURT: AND I THINK WE'VE COVERED

1 THIS, BUT YOU AGREE THAT THE GUN MAY BE FORFEITED  
2 TO THE GOVERNMENT? YOU AGREE THAT THE  
3 GOVERNMENT -- THAT THE FIREARM MAY BE FORFEITED TO  
4 THE GOVERNMENT?

5 THE DEFENDANT: YES, YOUR HONOR.

6 THE COURT: OKAY. ALL RIGHT. THE COURT  
7 FINDS THAT MR. BONILLA IS MAKING A KNOWING AND  
8 VOLUNTARY PLEA THAT'S SUPPORTED BY AN INDEPENDENT  
9 BASIS IN FACT AND THE COURT FINDS HIM GUILTY AT  
10 THIS TIME.

11 SENTENCING DATE?

12 THE CLERK: MARCH 10TH, '08.

13 MS. VINNARD: THAT'S ACCEPTABLE TO THE  
14 DEFENSE, YOUR HONOR.

15 MR. O'CONNELL: THAT'S FINE, JUDGE.

16 THE COURT: OKAY. THANK YOU.

17 MR. O'CONNELL: THANK YOU.

18 MS. VINNARD: THANK YOU.

19 (WHEREUPON, THE PROCEEDINGS IN THIS  
20 MATTER WERE CONCLUDED.)

21

22

23

24

25